

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**TOMMY LENARDO JONES,**

**Plaintiff,**

**v.**

**Case No. 20-CV-1286-SCD**

**COMMISSIONER OF THE  
SOCIAL SECURITY ADMINISTRATION,**

**Defendant.**

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**ORDER**

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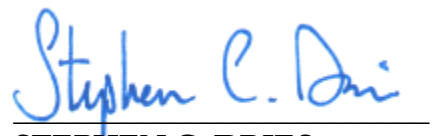
Tommy Jones filed this action without the assistance of counsel on August 20, 2020, seeking judicial review of the final decision of the Commissioner of the Social Security Administration pursuant to 42 U.S.C § 405(g). *See* ECF No. 1. The matter was reassigned to me in September 2020 after all parties consented to magistrate-judge jurisdiction under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73(b). *See* ECF Nos. 4, 6, 7. On March 16, 2021, I granted Jones an extension (the second one he requested) until April 23, 2021, to file a brief in support of his claim. That deadline has passed, however, and Jones still has not filed his brief.

“A district court has the authority under Federal Rule of Civil Procedure 41(b) to enter a sua sponte order of dismissal for lack of prosecution.” *James v. McDonald’s Corp.*, 417 F.3d 672, 681 (7th Cir. 2005); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626,630–32 (1962) (holding that Rule 41(b) permits but does not require a motion by defendant). “A Rule 41(b) dismissal is appropriate when there is ‘a clear record of delay or contumacious behavior,’ or when other sanctions have proved unavailing.” *3 Penny Theater Corp. v. Plitt Theaters, Inc.*, 812 F.2d 337,

339 (7th Cir. 1987) (quoting *Zaddack v. A.B. Dick Co.*, 773 F.2d 147, 150 (7th Cir. 1985)). However, no case should be dismissed for failure to prosecute without “explicit warning” of the potential sanction. *Ball v. City of Chi.*, 2 F.3d 752, 755–56 (7th Cir. 1993).

Accordingly, before dismissing this action for failure to prosecute, I will provide Jones one last opportunity to file a brief in support of his claim. That brief is due by **June 4, 2021**. If a timely brief in support is filed, the Commissioner shall have until **July 14, 2021**, to file his brief, and Jones shall have until **July 29, 2021**, to file a reply brief. If Jones fails to file a brief in support by June 4, I will dismiss this action with prejudice and without further notice pursuant to Fed. R. Civ. P. 41(b) and E.D. Wis. Civ. L. R. 41(c). The parties are reminded that their briefs must conform with the requirements set forth in the clerk of court’s briefing letter, ECF No. 8.

**SO ORDERED** this 5th day of May, 2021.

  
STEPHEN C. DRIES  
United States Magistrate Judge